



Attorney's Docket No. 070452.P001C

TECH CENTER 1600/2900

OCT 07 2002

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Forusz et al.

Serial No. **10/057,156**

Filed: **October 25, 2001**

For: **Composition for Increasing Bone Density**

Examiner: Frank I. Choi

Art Unit 1616

Confirmation No.

5/10
Gugg
10/17/02

AMENDMENT AND RESPONSE TO OFFICE ACTION

Box Amendments - No Fee
Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

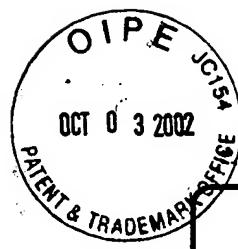
In response to the Office Action mailed June 27, 2002, Applicants respectfully request entry of the following amendments.

IN THE SPECIFICATION

(Signature) Please amend the Specification as follows:

A1 [0025] In one embodiment, the composition as a beverage includes a stabilizing agent to facilitate the solubilization of the individual components in solution. The stabilizing agent is one or more of a maltol commercially available from Cultor Food Science, Inc. of Ardsley, New York; a composition of carrageenan and maltodextrin such as sold under the trademark INSTA*THICK C-15L™ by Zumbro Inc. of Hayfield, Minnesota; or a xanthan gum such as sold under the trademark KELTROL™, by NutraSweet Kelco Company of Deerfield, Illinois. Preferably, a composition is combined with a combination of maltol and a composition of carrageenan and maltodextrin or a composition of maltol and xanthan gum(s). In this manner, the solubility of the individual components of the composition, particularly soy isoflavones, is improved. A suitable range of maltol in a beverage composition is 0.1 g to 0.4 g for a 240 mL composition. In a composition

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Approved for use through 10/31/2002, OMB 0651-0031
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

| | | | |
|--|----|------------------------|------------------|
| Total Number of Pages in This Submission | 18 | Application No. | 10/057,156 |
| | | Filing Date | October 25, 2001 |
| | | First Named Inventor | Samuel L. Forusz |
| | | Group Art Unit | 1616 |
| | | Examiner Name | Frank I. Choi |
| | | Attorney Docket Number | 70452P001C |

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ENCLOSURES (check all that apply)

| | | |
|--|---|---|
| <input checked="" type="checkbox"/> Fee Transmittal Form | <input type="checkbox"/> Assignment Papers (for an Application) | <input type="checkbox"/> After Allowance Communication to Group |
| <input type="checkbox"/> Fee Attached | <input type="checkbox"/> Drawing(s) | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences |
| <input checked="" type="checkbox"/> Amendment / Response | <input type="checkbox"/> Licensing-related Papers | <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final | <input type="checkbox"/> Petition | <input type="checkbox"/> Proprietary Information |
| <input type="checkbox"/> Affidavits/declaration(s) | <input type="checkbox"/> Petition to Convert a Provisional Application | <input type="checkbox"/> Status Letter |
| <input type="checkbox"/> Extension of Time Request | <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address | <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): |
| <input type="checkbox"/> Express Abandonment Request | <input type="checkbox"/> Terminal Disclaimer | <div style="border: 1px solid black; padding: 5px; min-height: 100px;">Form PTO/SB/08</div> |
| <input type="checkbox"/> Information Disclosure Statement | <input type="checkbox"/> Request for Refund | |
| <input type="checkbox"/> Certified Copy of Priority Document(s) | <input type="checkbox"/> CD, Number of CD(s) | |
| <input type="checkbox"/> Response to Missing Parts/Incomplete Application | <input type="checkbox"/> Remarks | |
| <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | | |

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

| | |
|-------------------------|---|
| Firm or Individual name | William Thomas Babbitt, Reg. No. 39,591 BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP |
| Signature | |
| Date | 9/27/02 |

CERTIFICATE OF MAILING/TRANSMISSION

September 27, 2002

| | | | |
|-----------------------|---------------|------|--------------------|
| Typed or printed name | Nedy Calderon | | |
| Signature | | Date | September 27, 2002 |

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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FEES TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27.

| | | |
|-------------------------|-------|------|
| TOTAL AMOUNT OF PAYMENT | (\\$) | 0.00 |
|-------------------------|-------|------|

| Complete if Known | |
|----------------------|------------------|
| Application Number | 10/057,156 |
| Filing Date | October 25, 2001 |
| First Named Inventor | Samuel L. Forusz |
| Examiner Name | Frank I. Choi |
| Group/Art Unit | 1616 |
| Attorney Docket No. | 70452P001C |

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METHOD OF PAYMENT (check one)

Check Credit card Money Order Other None
 Deposit Account

Deposit Account Number **02-2666**

Deposit Account Name **Blakely, Sokoloff, Taylor & Zafman LLP**

The Commissioner is authorized to: (check all that apply)

Charge fee(s) indicated below Credit any overpayments
 Charge any additional fee(s) required under 37 CFR §§ 1.16, 1.17, 1.18 and 1.20.
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account

FEE CALCULATION

1. BASIC FILING FEE

| Large Entity | | Small Entity | | FeePaid |
|---------------------|----------|--------------|----------|------------------------|
| Fee Code | Fee (\$) | Fee Code | Fee (\$) | |
| 101 | 740 | 201 | 370 | Utility filing fee |
| 106 | 330 | 206 | 165 | Design filing fee |
| 107 | 510 | 207 | 255 | Plant filing fee |
| 108 | 740 | 208 | 370 | Reissue filing fee |
| 114 | 150 | 214 | 80 | Provisional filing fee |
| SUBTOTAL (1) | | (\\$) | | |

2. EXTRA CLAIM FEES

| Total Claims | Extra Claims | Fee from below | FeePaid |
|--------------------|--------------|----------------|------------------|
| 21 | 23* | 0 | x 18.00 = \$0.00 |
| 3 | 4* | 0 | x 84.00 = \$0.00 |
| Multiple Dependent | | | |

| Large Entity | | Small Entity | | Fee Description |
|---------------------|----------|--------------|----------|---|
| Fee Code | Fee (\$) | Fee Code | Fee (\$) | |
| 103 | 18 | 203 | 9 | Claims in excess of 20 |
| 102 | 84 | 202 | 42 | Independent claims in excess of 3 |
| 104 | 280 | 204 | 140 | Multiple Dependent claim, if not paid |
| 109 | 84 | 209 | 42 | **Reissue independent claims over original patent |
| 110 | 18 | 210 | 9 | **Reissue claims in excess of 20 and over original patent |
| SUBTOTAL (2) | | (\\$) | | 0.00 |

*or number previously paid, if greater. For Reissues, see below

3. ADDITIONAL FEES

| Large Entity | Small Entity | Fee Description | FeePaid |
|---------------------|--------------|-----------------|---|
| Fee Code | Fee (\$) | Fee Code | Fee (\$) |
| 106 | 130 | 205 | 65 Surcharge - late filing fee or oath |
| 127 | 50 | 227 | 25 Surcharge - late provisional filing fee or cover sheet |
| 139 | 130 | 139 | 130 Non-English specification |
| 147 | 2,520 | 147 | 2,520 For filing a request for ex parte reexamination |
| 112 | 920 * | 112 | 920 * Requesting publication of SIR prior to Examiner action |
| 113 | 1,840 * | 113 | 1,840 * Requesting publication of SIR after Examiner action |
| 115 | 110 | 215 | 55 Extension for reply within first month |
| 116 | 400 | 216 | 200 Extension for reply within second month |
| 117 | 920 | 217 | 460 Extension for reply within third month |
| 118 | 1,440 | 218 | 720 Extension for reply within fourth month |
| 128 | 1,960 | 228 | 980 Extension for reply within fifth month |
| 119 | 320 | 219 | 160 Notice of Appeal |
| 120 | 320 | 220 | 160 Filing a brief in support of an appeal |
| 121 | 260 | 221 | 140 Request for oral hearing |
| 138 | 1,510 | 138 | 1,510 Petition to institute a public use proceeding |
| 140 | 110 | 240 | 55 Petition to revive - unavoidable |
| 141 | 1,280 | 241 | 640 Petition to revive - unintentional |
| 142 | 1,280 | 242 | 640 Utility issue fee (or reissue) |
| 143 | 460 | 243 | 230 Design issue fee |
| 144 | 620 | 244 | 310 Plant issue fee |
| 122 | 130 | 122 | 130 Petitions to the Commissioner |
| 123 | 50 | 123 | 50 Prosessing fee under 37 CFR 1.17(q) |
| 126 | 180 | 126 | 180 Submission of Information Disclosure Stmt |
| 581 | 40 | 581 | 40 Recording each patent assignment per property (times number of properties) |
| 146 | 740 | 246 | 370 Filing a submission after final rejection (37 CFR § 1.129(a)) |
| 149 | 740 | 249 | 370 For each additional invention to be examined (37 CFR § 1.129(b)) |
| 179 | 740 | 279 | 370 Request for Continued Examination (RCE) |
| 169 | 900 | 169 | 900 Request for expedited examination of a design application |
| Other fee (specify) | | | |

* Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

(\\$)

SUBMITTED BY

Complete (if applicable)

| | | | | | |
|-------------------|-------------------------------|-----------------------------------|--------|-----------|----------------|
| Name (Print/Type) | William Thomas Babbitt | Registration No. (Attorney/Agent) | 39,591 | Telephone | (310) 207-3800 |
| Signature | <i>William Thomas Babbitt</i> | | | Date | 9/27/02 |

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2039.

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